

MEMORANDUM

MAY 17, 1979

TO: BOSTON REDEVELOPMENT AUTHORITY

FROM: ROBERT J. RYAN, DIRECTOR

SUBJECT: CHARLESTOWN NAVY YARD
REQUEST APPROVAL OF A MEMORANDUM OF AGREEMENT

In order to effectuate the Charlestown Navy Yard development the attached Memorandum of Agreement has been proposed amongst the Massport, the EDIC and the Boston Redevelopment Authority.

Basically, the Massachusetts Port Authority has agreed to release any and all right, title and interest they may have in and to the real estate, commonly known as the Charlestown Navy Yard. In consideration of that release by Massport of its interest, the Authority is agreeing to enter into a long-term lease with Massport at a nominal rental for an area of approximately 2.3 acres located along the Little Mystic Channel and known as Disposition Parcel P-8A2.

The 2.3 acres of land being leased to Massport has been utilized by the Massachusetts Port Authority for some time as a sub-tenant of the Authority. This long-term lease will allow for the Massport to invest sufficient capital to properly integrate this elongated parcel into its terminal operation abutting this area.

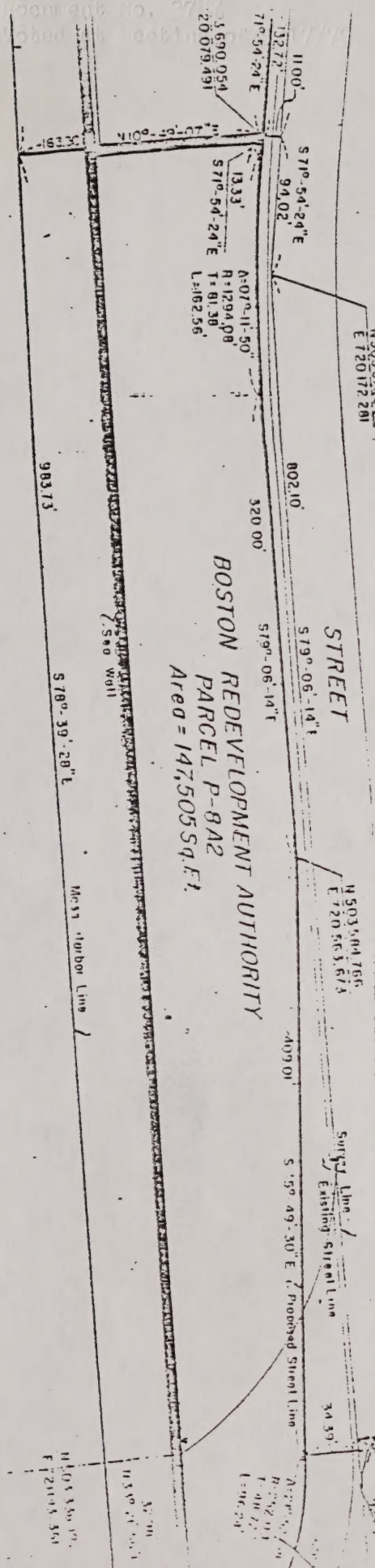
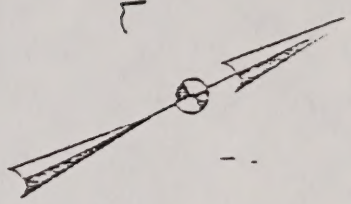
In order to finalize the agreements necessary to the development, it is recommended that the Authority ratify and confirm the actions of its Director in executing the Memorandum of Agreement as attached, and further authorize the Director, upon receipt of the release of Massport's interest in the Navy Yard, to execute a long-term lease concerning Parcel P-8A2.

Appropriate Votes follow:

VOTED: That the Boston Redevelopment Authority hereby ratifies and confirms the actions of its Director in executing the document entitled "Memorandum of Agreement" in the attached form and further authorizes the Director to execute necessary agreements to finalize this release.

VOTED FURTHER: That the Director by and hereby is authorized, in accordance with the Memorandum of Agreement, to execute a lease for Parcel P-8A2 for a term of forty (40) years at a rental of \$1.00 per year, all as more specifically defined on the attached Plan.

TERMINAL



CHANNEL

BOSTON REDEVELOPMENT AUTHORITY
PARCEL P-8A2
Area = 147,505 SQ. FT.

Project: BOSTON REDEVELOPMENT AUTHORITY

CHARLESTOWN — URBAN — RECREATION — AREA A

PROJECT NO MASS R-55

BOSTON — SUFFOLK COUNTY — MASSACHUSETTS
DELIVERY PARCEL PLAN

PARCEL P-8, P-8A1, P-8A2

L.C. DiPenti		APPROVED BY	
DRAWN BY	DATE	P-8	
J.E. Hoggeman	06-74		
CHECKED BY	DATE		
DATE AUGUST 6, 1974		SCALE 1" = 80'	

Attachment 3

MEMORANDUM

OF

AGREEMENT

This Agreement is made this ____ day of May, 1979 by and among the City of Boston, Massachusetts, a municipal corporation acting by its Mayor, (the City), the Economic Development and Industrial Corporation of Boston, a public body politic and corporate, organized and existing under Chapter 1097 of the Acts of 1971 of Massachusetts (EDIC), the Boston Redevelopment Authority, a public body politic and corporate, created pursuant to Chapter 121, Section 26QQ, of the Massachusetts General Laws (Ter.Ed.), as amended (BRA), the Massachusetts Port Authority, a body politic and corporate and a public instrumentality organized and existing under Chapter 465 of the Acts of 1956 of Massachusetts, as amended, acting with the consent of the Governor of the Commonwealth of Massachusetts (MASSPORT), and Government Land Bank of the Commonwealth of Massachusetts, a corporation created by Chapter 212 of the Acts of 1975, as amended, (LANDBANK),

WHEREAS, EDIC owns certain real estate in the South Boston section of the City which formerly comprised the South Boston Naval Annex, and which is shown on the map attached hereto as Attachment 1, and known as the Boston Marine Industrial Park

(BMIP), and

WHEREAS, BRA plans to purchase certain real estate in the Charlestown section of the City, which formerly comprised the Boston Naval Shipyard (Charlestown Land), as shown on Attachment 2 for the purpose of transferring portions of the real estate to private developers, and

WHEREAS, BRA is the owner of land in the Charlestown Urban Renewal Area (Project No. Mass. R-55) known as Parcel P-8A2 and shown on Attachment 3 (Parcel P-8A2),

WHEREAS, MASSPORT has asserted claims of title to portions of the said real estate owned by the BRA and EDIC, which claims prevent the redevelopment and reuse of the property as designed by the owners, and are more particularly referred to in Attachment 4,

WHEREAS, MASSPORT has a need for more real estate to expand its water terminal cargo handling capacities, and

WHEREAS, the City and Massport have entered into an agreement dated July 1, 1978 for payments by MASSPORT to the City in lieu of taxes (Massport In Lieu Agreement), and

WHEREAS, MASSPORT holds certain land in the South Boston section of the City as shown on Attachment 5, which comprises part of the Boston Army Base, under a long term lease from the United States of America (Department of Army) dated March 26,

1956 (Army Base Lease), and

WHEREAS, the purpose of the EDIC in part is to encourage types of development consistent with the public interest, which will maximize employment opportunities for the unemployed and underemployed of the City and to attract new industrial and commercial activity to the City, and

WHEREAS, it is the purpose of MASSPORT in part to facilitate the development of a containerport development project, water terminal cargo handling facilities, maritime and other port related uses for the benefit of the City of Boston and the region, and

WHEREAS, all of the parties hereto have determined as a matter of most compelling public policy to settle the conflicting claims of title to the real estate and to advance the purposes for which the respective parties have been created, and-

WHEREAS, the parties hereto wish to set forth their agreement in memorandum form with the understanding that to the extent more detailed legal documents are contemplated by the memorandum agreement each party shall lend its full cooperation and good faith to assure execution of such documents in a timely manner and in all events by June 30, 1979,

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties agree as follows:

I. RELEASE OF TITLE MASSPORT CLAIMS

A. Forthwith upon the execution of this Memorandum by the parties, MASSPORT will execute a document releasing to the BRA all of MASSPORT'S right, title and interest in and to the real estate shown on Attachments 2 and 3. The document shall be in form reasonably satisfactory to counsel for the BRA, who may require that the document be in recordable form and otherwise adequate to enable the BRA, its successors and assigns, to obtain insurance of the title to the Charlestown Land and Parcel P-8A2 without exception for any claim of MASSPORT.

B. Forthwith upon the execution of the lease from EDIC to MASSPORT of a portion of the BMIP as more particularly described in Paragraph IIIA below (Massport BMIP Lease), and upon the execution of the sublease or license from MASSPORT to EDIC of a portion of the Boston Army Base as more particularly described in Paragraph V below (EDIC Army Base Sublease), MASSPORT will execute a document releasing to EDIC all of MASSPORT'S right, title and interest in and to the real estate comprising the BMIP, other than the Massport BMIP Lease. Such document shall be in form reasonably satisfactory to counsel for EDIC, who may require that it be in recordable form and otherwise in such form as to

enable EDIC, its successors and assigns, to obtain insurance of the title to the BMIP without an exception for any claim of MASSPORT to the title, other than the Massport BMIP Lease.

II. LEASE OF PARCEL P-8A2, CHARLESTOWN

In consideration of the release by MASSPORT of its interest in the Charlestown Land, BRA, acting through its Director and subject to the approval of the Board of Directors of the BRA (which approval shall be sought at the earliest possible time), agrees to lease free and clear of third party liens for a 40 year term at a rent of \$1 per year a parcel of approximately 2.3 acres located on the Little Mystic Channel, Charlestown, designated as Parcel P-8A2 and shown on Attachment 3. Such lease, and a notice thereof in recordable form, shall be in form reasonably satisfactory to counsel for MASSPORT.

III. MASSPORT BMIP LEASE

A. LEASED PREMISES:

EDIC will lease to MASSPORT the following described real estate at BMIP:

1. Jetty Area: approximately 10.2 acres of land

led jetty bounded by the harbor edge of the (50'), the harbor edge of the North Jetty a line running from the east end of the all as shown cross-hatched on Attachment 6. er Area: approximately 37.2 acres as shown 6. These 37.2 acres are bounded by the of the West Jetty, the harbor ends of the a line running northerly to southerly midway between piers 4 and 5, and by the "C" Street, it being understood that the utility of Pier 5 is critical. Within this shall have the unlimited right to fill for and shall have the full support of all o to facilitate any necessary licenses, pprovals for filling.

mon Area: incident to the lease of the er Areas, MASSPORT shall have:

the right in common with others to use xcept certain areas of "C" Street now under well Shipyard. EDIC will, to the extent modify the Braswell lease to make that ion of "C" Street available to MASSPORT terim period required for its filling

operation. It is the intent of both MASSPORT and EDIC that operations on their respective lands will be conducted to the extent practicable, in a manner which is mutually compatible.

(b) the right in common with other tenants at BMIP to use existing roads and railways for the purpose of providing direct paved-road access (reasonably lighted) and rail access to the property leased to MASSPORT; and

(c) any easements MASSPORT may reasonably require to bring utilities and rail service from the perimeter of BMIP to the Jetty Area and the Water Area (together the "Massport Leased Area"), EDIC will permit MASSPORT to use existing utilities to the extent available and at the same rates charged to other tenants at BMIP. MASSPORT's right to bring utility and rail service to its property must be exercised so as to avoid unreasonable interference with activities of other tenants.

B. INTERIM LAND ARRANGEMENT:

Until the earlier of (a) such time as the portion of the Boston Army Base to be subleased to EDIC by MASSPORT is available for EDIC's use and is in such condition that it is

functional and safe for the conducting of the activities now conducted by EDIC at the North Jetty area, into which condition EDIC agrees to put the same as soon as practicably possible, or (b) receipt by MASSPORT of all licenses, permits and approvals required to fill the Water Area, EDIC shall maintain exclusive use and occupancy of the North Jetty and approximately 5 acres adjoining as shown on Attachment 7.

So long as EDIC is in possession of the North Jetty and the adjoining land, at MASSPORT's option exercised by 90 days' notice, it may lease Parcel 17-B shown on Attachment 7 for the same per square rental as was used in computing the \$360,000 rent.

C. TERM:

The initial term of the Massport BMIP Lease shall be forty years, with MASSPORT having the option to extend the term for one or both of two successive 25 year terms. MASSPORT shall be required to obtain the following permits, licenses, and approvals with respect to the filling of the Water Area within the initial term: from MEPA (M.G.L. c. 301, secs. 61 and 62), from Boston Conservation Commission (M.G.L. c. 131, sec. 40), any M.G.L. c. 91 license (if required), from United States Army Corps. (33 U.S.C. 344, sec. 404 of PL 92-500), from DEQE, Division of Water Pollution Control (M.G.L. c. 21, sec. 26-53),

and from CZM (40 CFR 930). In the event that all such permits have not been obtained during the first five years of the term, the Massport BMIP Lease and the EDIC Army Base Sublease shall expire. Such twenty-five year options to extend may be exercised by MASSPORT by written notice given to EDIC not more than fifteen years and not less than one year prior to the expiration of the then current term.

D. RENT:

By reason of the planned MASSPORT investment in the Water Area which will result in the creation of property value, rent for all of the initial term, and any extended term shall, as to the Water Area, be one dollar payable upon the execution of the lease. Rent for the Jetty Area, until the permits referred to above shall have been obtained, shall subject to the pro rata reduction provided for below, be at the rate of Three Hundred Sixty Thousand Dollars (\$360,000) per annum, payable in equal monthly installments in advance. Rent for the balance of the initial forty year term shall be determined by an appraisal process forthwith upon MASSPORT's notice to EDIC that it has obtained all such permits. Rent for the twenty-five year additional terms shall be determined by an appraisal process forthwith upon the MASSPORT notice of election to extend the lease for such an additional term. The appraisal process

("appraisal process") shall consist of MASSPORT and EDIC each selecting a real estate counselor or appraiser who together shall in turn select a third such counsel or appraiser. Determinations of rental under the appraisal process for the balance of the initial 40 year term shall be made on the basis of the condition and configuration of the Jetty Area as it existed on June 30, 1979, without regard for the value of improvements made by MASSPORT. The appraisal shall consider only the value of the 10.2 acre tract and shall be based on the highest and best use of the land, unimproved and unencumbered. The \$360,000 rent shall not be considered a floor rent in appraisal process. Determinations as to basic term and additional term rent shall be final and such decisions shall be enforceable in any court of competent jurisdiction. When and if MASSPORT exercises its options to extend the Massport BMIP Lease after the initial term or after the first extended term, the rental will be fixed by the same process during the year preceding the commencement of the next term. Whenever EDIC is rightfully in possession and control of the North Jetty area under the lease, MASSPORT's rent shall be abated on a pro rata square footage basis.

E. USE:

MASSPORT's use of the leased premises shall be only for maritime-related activities, including the construction of

facs necessary or appropriate to carry out these activites. MASShall have all the rights of a terminal operator with resp the operation of the leased premises, including with- outation the scheduling of vessel tie-up and unloading, and alla of ground area for storage.

7. SUBLEASE:

MASSPORT may sublease all or part of the leased premo a tenant or tenants whose sublease use shall be limi use permitted to MASSPORT, as provided in E above. MASShall give EDIC prior notice of any such sublease.

. MAINTENANCE:

MASSPORT shall maintain the Massport Leased Area in at ls good condition for maritime use as they were upon the commnt of the Massport BMIP Lease and shall upon the ex- piraf the Massport BMIP Lease return the Massport Leased Areach condition, normal wear and tear only excepted.

. MISCELLANEOUS:

The Massport BMIP Lease will contain such other provsuch as insurance, indemnity, and casualty as are custy included in long term leases, provided that such prov do not interfere MASSPORT's proper use of the property leas.

IV. MASSPORT TAX CREDIT

The City of Boston agrees that, in consideration of Massport BMIP Lease and investment in the Jetty and Water Areas, MASSPORT may deduct the amount of One Hundred Thousand Dollars (\$100,000) per annum from in lieu of tax payments otherwise becoming due under the Massport In Lieu Agreement MASSPORT during the term of the Massport BMIP Lease, as the same may be extended for up to 90 years. In the event the rent under the Massport BMIP Lease is reduced by reason of the Temporary Land Arrangement referred to above, such \$100,000 deduction shall also be reduced pro-rata in the same ratio. The City of Boston agreement to such deduction shall be self-executing, no further legal document with respect thereto being contemplated.

V. EDIC ARMY BASE SUBLEASE

For as long as both the Massport BMIP Lease and the Boston Army Base Lease remain in effect, and in order to permit EDIC to relocate any current North Jetty ship repair activity, MASSPORT agrees to sublease on rental terms more fully described in this Paragraph V as much of Berths 1-2, 4-6 and the easterly half of 7 as is necessary to provide EDIC with replacement dock-

age for the berthing areas of the West and North Jetty. Berth 3 is specifically excluded from this sublease. No dockage will be charged EDIC for its use of the Berths. MASSPORT agrees to modify its present Boston Army Base Lease to provide EDIC with preemptive non-exclusive use of the berth aprons adjacent to Berths 1-6 and the easterly half of 7 and of a Shared Use Area at the Boston Army Base (as shown on Attachment 5) for use by ships when being serviced for repair at BMIP's Dry Dock #3. No rent will be charged EDIC for the use of such berth aprons. Any cranes necessary to EDIC ship repair use of such berths shall be provided by EDIC at its sole cost. MASSPORT subject to EDIC's sublease shall have preferential non-exclusive use of Berths 1, 2, 4, 5, 6 and the easterly half of 7 when not utilized for the operation of BMIP. EDIC shall remit to MASSPORT 50% of the revenues generated by EDIC from the dockage and wharfage fees from vessels berthed in the sublease area which are not directly related to the operation of a ship repair facility.

As long as EDIC occupies the North Jetty Area it will not have sublease rights in the Reserved Channel. In consideration for EDIC's granting MASSPORT exclusive use of the West Jetty, MASSPORT shall grant EDIC preemptive non-exclusive use of Berths 1 and 2. The term "preemptive" as used herein shall mean, in the event of emergency, that the parties will endeavor to make

berthage available when requested by the other party on 24 hour notice and in all other instances, on 7 days' notice.

VI. MASSPORT GRANT FUNDS

The City and EDIC agree to fully support MASSPORT applications for grant funds for major capital improvements on the Massport Leased Area. Major capital improvements for which grant funds may be applied by MASSPORT include rejacketing and/or replacement of pilings, land fill, repair or replacement of wooden fender system, repair of concrete deck, patching of steel sheet pile bulkhead, paving, flood lighting, and related engineering costs. Whether or not such grant funds are forthcoming, MASSPORT will undertake whatever improvements shall be necessary or appropriate in its judgment to render the Massport Leased Area suitable for MASSPORT's maritime uses. MASSPORT shall give EDIC 30' days prior notice of major capital improvements to be undertaken on the Massport Leased Premises.

VII. COMMONWEALTH FLATS

EDIC acknowledges that MASSPORT, for itself and its invitees, shall have the right at no charge to the use of the

existing Boston Army Base-to-Commonwealth Flats easement area (as shown on Attachment 8) to permit the flow of vehicular traffic for any lawful purpose incident to MASSPORT's Boston Army Base and Commonwealth Flats operation.

VIII. BOSTON ARMY BASE SURPLUS

In the event that the Boston Army Base is excessed by the United States as surplus federal property, both MASSPORT and EDIC may, if then permitted by law, submit purchase offers for consideration by the United States. In the event that the United States conveys the Boston Army Base (including Building 114 as shown on the Attachment 5) to MASSPORT and in recognition of the suitability of Building 114 for light industrial use, MASSPORT shall either convey said Building 114 to EDIC at direct acquisition cost or lease said Building 114 to EDIC for a lease term, with options coterminous with the Massport BMIP Lease. Rental shall be computed by amortizing direct acquisition cost (to be determined if necessary by the appraisal process) at the then bonding rate of MASSPORT.

MASSPORT will grant EDIC such licenses and easements over its adjacent property as may be reasonably necessary to enable EDIC and its tenants to conduct their activities in an

efficient manner, and may reasonably restrict EDIC's use insofar as may be necessary to protect the rights of other tenants without unreasonably impairing EDIC's use.

In the event that the United States conveys to EDIC any part of the Boston Army Base now subject to the Boston Army Base Lease, EDIC shall assume, and shall purchase any such part of the Boston Army Base subject to the Boston Army Base Lease.

IX. LANDBANK SUBORDINATION

Landbank, as holder of a mortgage on the BMIP, hereby agrees to subordinate its mortgage to the Massport BMIP Lease by an instrument in recordable form reasonably acceptable to counsel for MASSPORT.

X. ARBITRATION

Initial drafts of all documents contemplated herein are to be prepared by independent counsel to be selected by Messrs. Kiley, Hynes & Beal (the "Arbitrators"). Any dispute as to the intention of this memorandum or the form and substance of such documents shall be resolved by unanimous decision of the Arbitrators which shall be binding and enforceable upon all

parties hereto.

EXECUTED by the parties at Boston, Massachusetts on the
date first above written by their authorized officers:

Approved as to Form:

THE CITY OF BOSTON

Joseph D. Allen
Corporation Counsel
City of Boston

By: Kevin E. White
Kevin E. White, Mayor

ECONOMIC DEVELOPMENT AND
INDUSTRIAL CORPORATION OF
BOSTON

Joseph D. Allen
Legal Counsel
EDIC

By: Thomas E. Linn
Vice Chairman

MASSACHUSETTS PORT AUTHORITY

Robert B. Burke
General Counsel
MASSPORT

By: Robert B. Burke
Chairman

BOSTON REDEVELOPMENT AUTHORITY

Harold G. Hall
General Counsel
BRA

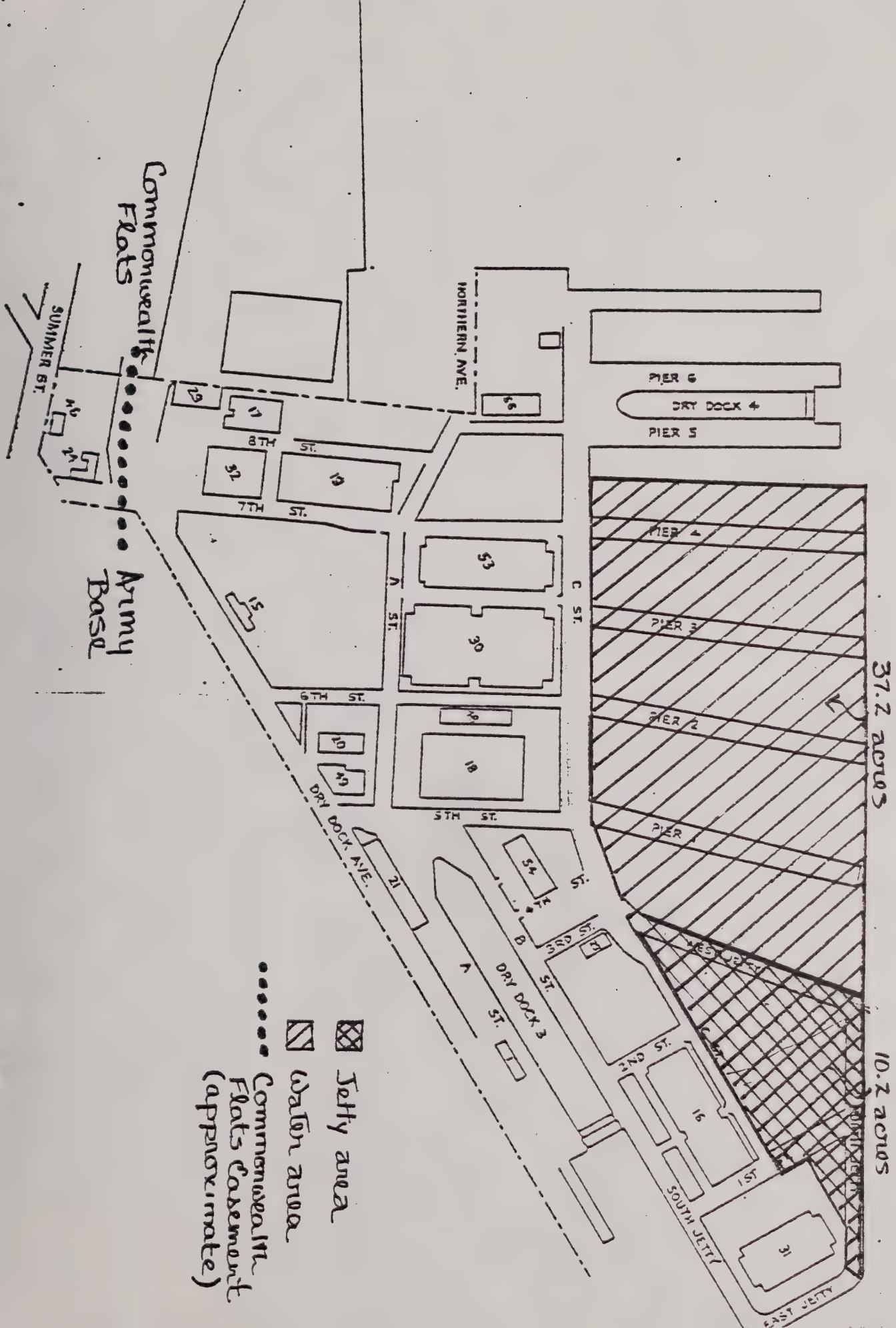
By: Harold G. Hall
Director

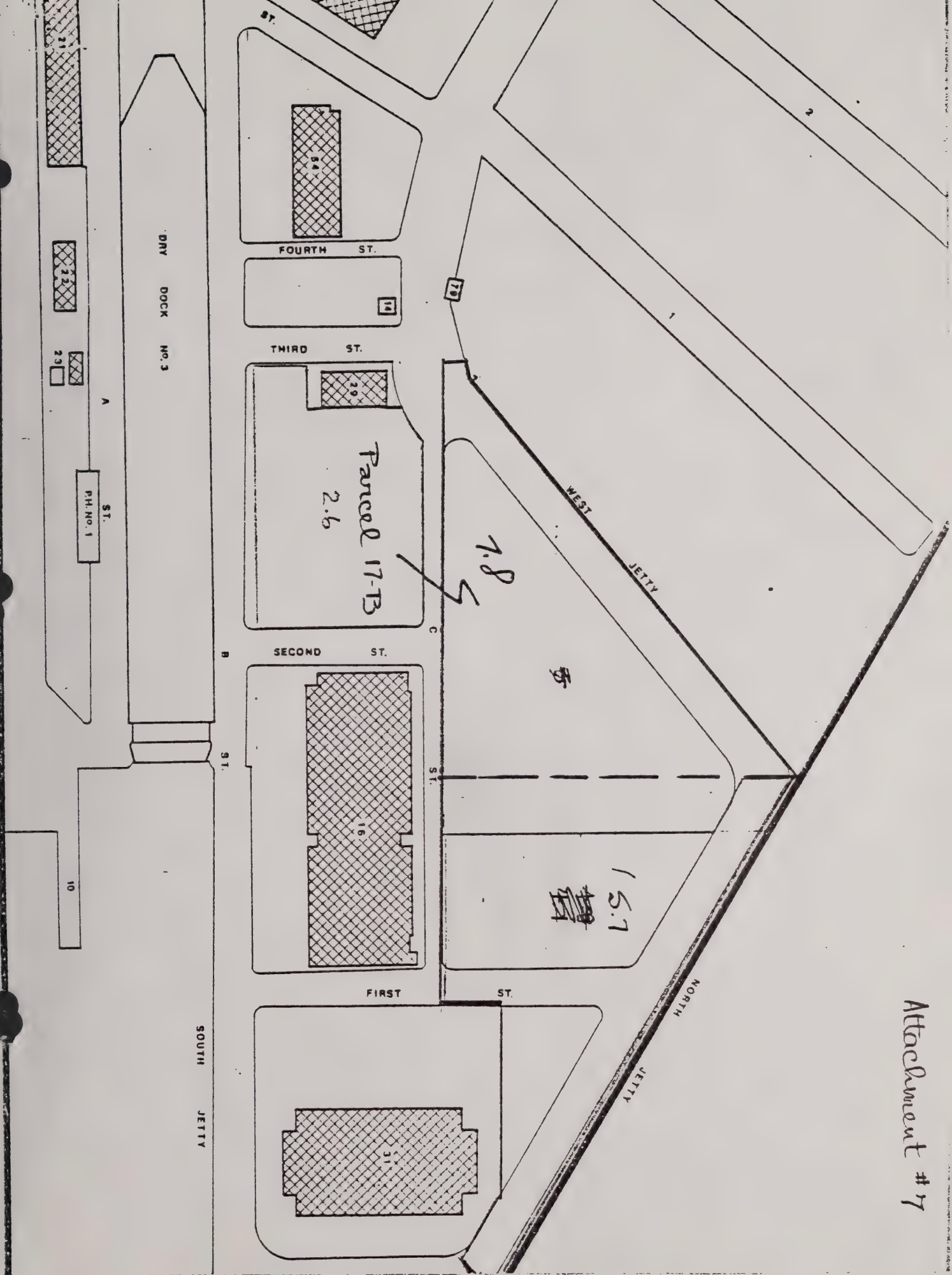
GOVERNMENT LAND BANK OF
COMMONWEALTH OF MASSACHUSETTS

General Counsel
LANDBANK

By: _____
Chairman









CITY OF BOSTON

KEVIN H. WHITE
MAYOR

May 10, 1979

Mr. Robert Kiley
34 West Cedar Street
Boston, Massachusetts 02114

Dear Bob:

The provisions of Section V of the Memo of Understanding of today's date are in our opinion ambiguous as to EDIC's prerogatives with respect to its use of the reserved channel area.

Without getting into the linguistic niceties of the document, we want to express to both Massachusetts Port Authority and the arbitrators that any signing of this initial document is predicated on the representation by the arbitrators that the final documents will provide for EDIC's effective operational control over Berths 1, 2, 4, 5, 6, and if necessary the easterly half of Berth 7 and adjacent dock areas (including the apron adjacent to Berth #3).

Sincerely,

Thomas Leggat
Vice-Chairman
Economic Development
and Industrial Corporation



HIGH ST. BOSTON, MASSACHUSETTS 02110 (617) 482-2930 TELEX 94-0365

May 10, 1979

Mr. Robert Kiley
Boston, Massachusetts

Dear Bob:

You have informed us of EDIC's concern regarding the permanency of operations to be relocated from the Naval Annex to the premises now under lease to the Authority at the Army Base.

We would like to assure you that in the lease document to be drawn between EDIC and ourselves we shall undertake:

- (1) to exercise our various renewal options at the Army Base through the maximum term available under the present lease, i.e., the year 2031;
- (2) if we should acquire the Army Base fee, to continue to lease Army Base berths and aprons to EDIC under terms similar to those contained in today's Memorandum of Agreement; and
- (3) to use our best efforts within the next thirty days to achieve solutions for the eventuality that the Authority's Army Base lease would terminate in 2031 or, by operation of eminent domain or national emergency, at some earlier date.

We trust these assurances will satisfy the concern of EDIC.

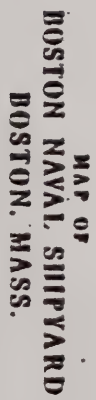
Sincerely,

MASSACHUSETTS PORT AUTHORITY

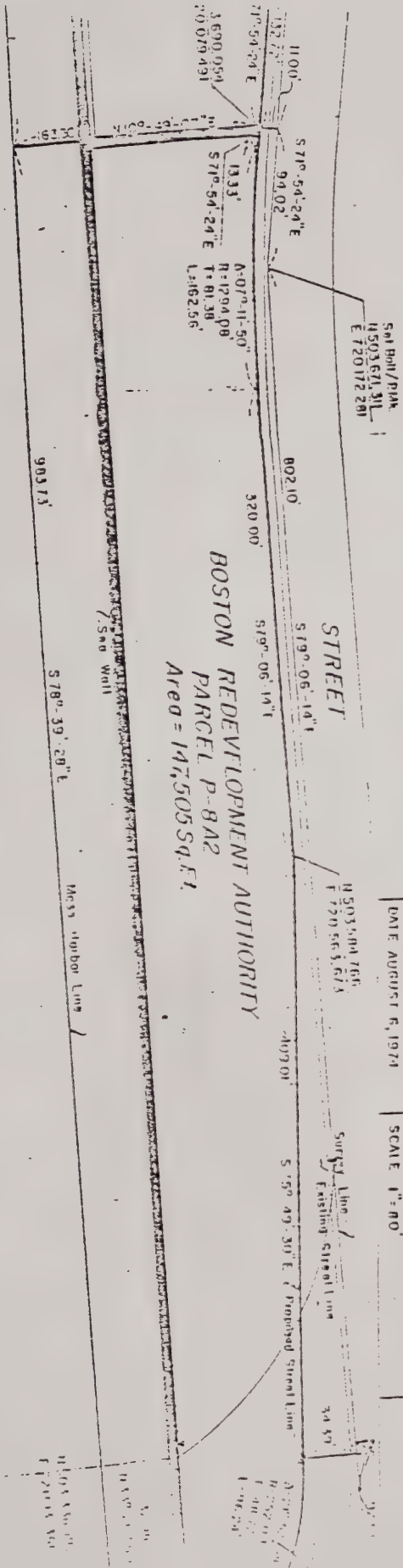
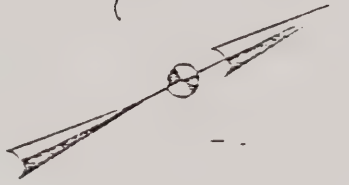
David W. Davis
Executive Director

DWD/mg

2



TERMINAL



BOSTON REDEVELOPMENT AUTHORITY
PARCEL P-8A2
Area = 147,505 Sq. Ft.

CHANNEL

L.C. DePaul
DRAWN BY
J.E. Houghton
CHECKED BY
DATE AUGUST 6, 1974

APPROVED BY
DATE
CHIEF ENGINEER
SCALE 1" = 60'

P-8

PARCEL P-8, P-8A1, P-8A2

BOSTON -- SUFFOLK COUNTY -- MASSACHUSETTS
DELIVERY PARCEL PLAN

CHARLES STOKES -- URBAN -- METROPOLITAN AREA

PROJECT NO. MASS. R-55

Form: BOSTON REDEVELOPMENT AUTHORITY

A. Johnson 3

ATTACHMENT 4

TITLE CLAIMS

1. ECONOMIC DEVELOPMENT AND INDUSTRIAL CORPORATION OF BOSTON,
AND GOVERNMENT LAND BANK v. UNITED STATES OF AMERICA,
GENERAL SERVICES ADMINISTRATION, AND MASSACHUSETTS PORT
AUTHORITY.
United States District Court for the District of Massa-
chusetts, Civil Action No. 78-1247-N.
2. ECONOMIC DEVELOPMENT AND INDUSTRIAL CORPORATION OF BOSTON,
AND GOVERNMENT LAND BANK v. UNITED STATES OF AMERICA.
United States Court of Claims, Docket No. 280-70.

BOSTON ARMY BASE

24. 1000	1000
25. 1000	1000
26. 1000	1000
27. 1000	1000
28. 1000	1000
29. 1000	1000
30. 1000	1000

PREFACE

[illegible]



CITY OF BOSTON

KEVIN H. WHITE
MAYOR

May 10, 1979

Mr. Robert Kiley
34 West Cedar Street
Boston, Massachusetts 02114

Dear Bob:

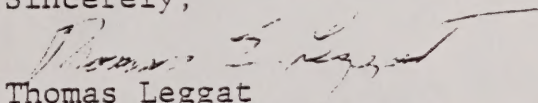
We have reviewed the Memorandum of Agreement of this date and want to express our reservation on an issue critically affecting the viability of EDIC's operations.

Under the terms of the agreement as written, EDIC is to lease the North and West Jetty area to Massport Authority for up to ninety years. To replace the facilities leased to Massport, EDIC will acquire by lease from Massport certain facilities at the Army Base. Functionally we believe that EDIC's operations can be modified to adjust to the new land configuration, but we have a serious concern about the permanency of EDIC's lease of the Army Base property. Massport's lease with the Federal Government extends to 2031 at a maximum, with shorter terms available at Massport's option. The Federal Government has also reserved its right to terminate the lease in a national emergency, and in any case could take it by eminent domain. If Massport should acquire the fee in the property from the government, then Massport's lease would terminate as a matter of law.

EDIC needs the secure knowledge that if for any reason it is involuntarily dispossessed of its rights in the army base, it will have replacement space available to continue its functions at BMIP.

Any lease signed under the Agreement should resolve this problem in such a way that EDIC's obvious interests are protected.

Sincerely,


Thomas Leggat
Vice-Chairman
Economic Development
and Industrial Corporation

May 10, 1979

Thomas Leggett
Vice Chairman
EDIC
Boston, Massachusetts

Dear Tom,

It was our intention in framing Section IV of the Agreement to provide EDIC with effective operational control of Berths 1,2,4,5,6, and, if necessary, the easterly half of Berth 7 and adjacent dock areas (including the apron adjacent to Berth 3).

It was, and still is, our intention to make this as clear as possible in the legal documents contemplated in the Agreement.

DR Liley